NOTIFICATION.

LAW DEPARTMENT.

No. LAW 69 LCA 66, Bangalore, dated 6th January 1967.

Ordered that the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, (32 of 1966), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 1, dated the 6th December 1966, be published in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,

Under Secretary to Government, L. D.

Assented on 30th November 1966. Act No. 32 of 1966

THE BEEDI AND CIGAR WORKERS (CONDITIONS OF EMPLOYMENT) ACT, 1966.

ARRANGEMENT OF SECTIONS

Sections

1 Short title, extent and commencement.
2 Definitions.
3 Industrial premises to be licensed.
4 Licences.
5 Appeals.
6 Inspectors.
7 Powers of Inspectors.
8 Cleanliness.
9 Ventilation.
10 Overcrowding.
11 Drinking water.
12 Latrines and urinals.
13 Washing facilities.
14 Creches.

15 First aid.
16 Canteens.
17 Working hours.
18 Wages for overtime work.
19 Interval for rest.
20 Spread over.
21 Weekly holidays.
22 Notice of periods of work.
23 Hours of work to correspond with notice under section 22.
24 Prohibition of employment of children.
25 Prohibition of employment of women or young persons during certain hours.
26 Annual leave with wages
27 Wages during leave period.
28 Applications of the Payment of Wages Act, 1936 to industrial premises.
29 Special provisions.
30 Onus as to age.
31 Notice of dismissal.
32 Penalty for obstructing Inspector.
33 General penalty for offence.
34 Offences by companies.
35 Indemnity.
36 Cognizance of offences.
37 Application of the Industrial Employment (Standing Orders) Act, 1946 and the Maternity Benefit Act, 1961.
38 Certain provisions not apply to industrial premises.
39 Application of the Industrial Disputes Act, 1947.
40 Effect of laws and agreements inconsistent with this Act.
41 Power to exempt.
42 Powers of Central Government to give directions.
43 Act not to apply to self-employed persons in private dwelling houses.
44 Power to make rules.

THE BEEDI AND CIGAR WORKERS (CONDITIONS OF EMPLOYMENT) ACT, 1966.

AN

ACT

to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and for matters connected therewith.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed by the State Government for different areas and for different provisions of this Act.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "adult" means a person who has completed eighteen years of age;

(*b*) "child" means a person who has not completed fourteen years of age;

(*c*) "competent authority" means any authority authorised by the State Government by notification in the Official Gazette to perform all or any of the functions of the competent authority under this Act and for such areas as may be specified therein;

(*d*) "contractor" means a person who, in relation to a manufacturing process, undertakes to produce a given

result by executing the work through contract labour or who engages labour for any manufacturing process in a private dwelling house and includes a sub-contractor, agent, *munshi*, *thekedar* or *sattedar* ;

(*e*) "contract labour" means any person engaged or employed in any premises by or through a contractor, with or without the knowledge of the employer, in any manufacturing process ;

(*f*) "employee" means a person employed directly or through any agency, whether for wages or not, in any establishment to do any work, skilled, unskilled, manual or clerical, and includes—

(*i*) any labour who is given raw materials by an employer or a contractor for being made into beedi or cigar or both at home (hereinafter referred to in this Act as "home worker"), and

(*ii*) any person not employed by an employer or a contractor but working with the permission of, or under agreement with, the employer or contractor ;

(*g*) "employer" means,—

(*a*) in relation to contract labour, the principal employer, and

(*b*) in relation to other labour, the person who has the ultimate control over the affairs of any establishment or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any establishment, and includes any other person to whom the affairs of the establishment are entrusted, whether such other person is called the managing agent, manager, superintendent or by any other name ;

(h) "establishment" means any place or premises including the precincts thereof in which or in any part of which any manufacturing process connected with the making of beedi or cigar or both is being, or is ordinarily, carried on and includes an industrial premises ;

(i) "industrial premises" means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry or manufacturing process connected with the making of beedi or cigar or both is being, or is ordinarily, carried on with or without the aid of power;

(j) "Inspector" means an Inspector appointed under sub-section (1) of Section 6;

(k) "manufacturing process" means any process for, or incidental to making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as beedi or cigar or both;

(l) "prescribed" means prescribed by rules made by the State Government under this Act;

(m) "principal employer" means a person for whom or on whose behalf any contract labour is engaged or employed in an establishment;

(n) "private dwelling house" means a house in which persons engaged in the manufacture of beedi or cigar or both reside;

(o) "State Government", in relation to a Union territory, means the Administrator thereof;

(p) "week" means a period of seven days beginning at midnight on Saturday;

(q) "young person" means a person who has completed fourteen years of age but has not completed eighteen years of age.

3. Industrial premises to be licensed.—Save as otherwise provided in this Act, no employer shall use or allow to be used any place or premises as an industrial premises unless he holds a valid licence issued under this Act and no such premises shall be used except in accordance with the terms and conditions of such licence.

4. Licences.—(1) Any person who intends to use or allows to be used any place or premises as industrial premises shall make an application in writing to the competent authority, in such form and on payment of such fees as may be prescribed, for a licence to use, or allow to be used, such premises as an industrial premises.

(2) The application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed.

(3) The competent authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters :—

(a) the suitability of the place or premises which is proposed to be used for the manufacture or beedi or cigar or both ;

(b) the previous experience of the applicant ;

(c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour ;

(d) whether the application is made *bona fide* on behalf of the applicant himself or in benami of any other person ;

(e) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed.

(4) (a) A licence granted under this Section shall not be valid beyond the financial year in which it is granted but may be renewed from financial year to financial year:

(b) An application for the renewal of a licence granted under this Act shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the

renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof;

(c) The competent authority shall, in deciding whether to renew a licence or to refuse a renewal thereof, have regard to the matters specified in sub-section (3).

(5) The competent authority shall not grant or renew a licenbce unless it is satisfied that the provisions of this Act and the rules made thereunder have been substantially complied with.

(6) The competent authority may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence granted or renewed under this Act if it appears to it that such licence has been obtained by misrepresentation or fraud or that the licensee has contravened or failed to comply with any of the provisions of this Act or the rules made thereunder or any of the terms or conditions of the licence.

(7) The State Government may issue in writing to a competent authority such directions of a general character as that Government may consider necessary in respect of any matter relating to the grant or renewal of licences under this Section.

(8) Subject to the foregoing provisions of this Section, the competent authority may grant or renew licences under this Act on such terms and conditions as it may determine and where the competent authority rufuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

5. Appeals.—Any person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling or suspending a licence may, within such time and on payment of such fees, not exceeding twenty rupees, as may be prescribed, appeal to such authority as the State Government may, by notification in the Official Gazette, specify in this behalf, and such authority may by order

confirm, modify or reverse any order refusing to grant or renew a licence or cancelling or suspending a licence.

6. Inspectors.—(1) The State Government may, by notification in the Official Gazette, appoint such of its officers or such officers of any local authority as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State.

(3) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code. (45 of 1860.)

7. Powers of Inspectors.—(1) Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) make such examination and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been or are being complied with in any place or premises :

Provided that no person shall be compelled under this Section to answer any question or to give any evidence which may tend to incriminate himself :

(b) require the production of any prescribed register and any other document relating to the manufacture of beedi or cigar or both ;

(c) enter, with such assistants as he thinks fit, at all times any place or premises including the residences of employees if he has reasonable grounds for suspecting that any manufacturing process is being carried on or is ordinarily carried on in any such place or premises ;

(d) exercise such other powers as may be prescribed.

(2) If an Inspector has reasonable grounds for suspecting that any manufacturing process is being carried on in any establishment in contravention of the provisions of this Act, he may, after giving due notice to the employer or, in the absence of the employer, to the occupier, enter such establishment with such assistants, if any, as he may think fit.

(3) Every employer or occupier shall accord to the Chief Inspector or the Inspector, as the case may be, all reasonable facilities in the discharge of his duties under this Act.

8. Cleanliness.— Every industrial premises shall be kept clean and free from effluvia arising from any drain, privy or other nuisance and shall also maintain such standard of cleanliness including white washing, colour washing, varnishing or painting, as may be prescribed.

9. Ventilation.—(1) For the purpose of preventing injury to the health of the persons working therein, every industrial permises shall maintain such standards of lighting, ventilation and temperature, as may be prescribed.

(2) Wherever dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the persons employed in any industrial premises is given off by reason of the manufacturing process carried on in such premises, the competent authority may require the employer to take such effective measures as may prevent the inhalation of such dust, fume or other impurity and accumulation thereof in any work room.

10. Overcrowding:—(1) No room in any industrial premises shall be overcrowded to an extent injurious to the health of the persons employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in any work room of such premises at least four and a quarter cubic metres of space for every person employed therein, and for the purposes of this sub-

section, no account shall be taken of any space which is more than three metres above the level of the floor of the work room.

11. Drinking water:—(1) The employer shall make in every industrial premises effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by the majority of the persons employed in the industrial premises and no such point shall be situated within six metres of any washing place, urinal or latrine except with the prior approval in writing of the competent authority.

12. Latrines and urinals.—(1) In every industrial premises, sufficient latrine and urinal accommodation of such types as may be prescribed shall be provided and shall be so conveniently situated as may be accessible to the employees at all times while they are in the industrial premises:

Provided that it shall not be necessary to provide separate urinals in industrial premises where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

(2) The State Government may specify the number of latrines and urinals which shall be provided in any industrial premises in proportion to any number of male and female employees ordinarily employed therein, and may provide for such further matters in respect of sanitation in the industrial premises including obligation of the employees in this regard as it may consider necessary in the interest of the health of the persons employed therein.

13. Washing facilities.—In every industrial premises, where blending or sieving or both of tobacco or warming of beedi in hot ovens is carried on, the employer shall provide

such washing facilities for the use of the employees, as may be prescribed.

14. Creches —(1) In every industrial premises wherein more than fifty female employees are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female employees.

(2) Such rooms shall —

(*a*) provide adequate accommodation ;

(*b*) be adequately lighted and ventilated ;

(*c*) be maintained in a clean and sanitary condition;

(*d*) be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules—

(*a*) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;

(*b*) requiring the provision in any industrial premises to which this section applies, of additional facilities for the care of children belonging to female employees, including suitable provision of facilities for washing and changing their clothing;

(*c*) requiring the provision in any industrial premises of free milk or refreshment or both for such children ;

(*d*) requiring that facilities shall be given in any industrial premises for the mothers of such children to feed them at necessary intervals.

15. First aid.—Every industrial premises shall provide such first aid facilities as may be prescribed.

16. Canteens.—The State Government may, by rules, require the employer to provide and maintain in every

industrial premises wherein not less than two hundred and fifty employees are ordinarily employed, a canteen for the use of the employees.

17. Working hours.—No employee shall be required or allowed to work in any industrial premises for more than nine hours in any day or for more than forty-eight hours in any week:

Provided that any adult employee may be allowed to work in such industrial premises for any period in excess of the limit fixed under this section subject to the payment of overtime wages if the period of work, including overtime work, does not exceed ten hours in any day and in the aggregate fifty-four hours in any week.

18. Wages for overtime work.—(1) Where any employee employed in any industrial premises is required to work overtime, he shall be entitled in respect of such overtime work, to wages at the rate of twice his ordinary rate of wages.

(2) Where the employees in an industrial premises are paid on a piece-rate basis, the overtime rate shall be calculated, for the purposes of this section, at the time rates which shall be as nearly as possible equivalent to the daily average of their full time earnings for the days on which they had actually worked during the week immediately preceding the week in which the overtime work has been done.

(3) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such allowance, including the cash equivalent of the advantage accruing through the concessional sale to the employees of foodgrains and other articles the employee is for the time being entitled to but does not include bonus.

(4) The cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed as often as may be

prescribed on the basis of the maximum quantity of food-grains and other articles admissible to a standard family.

Exp'anation I.– "Standard family" means a family consisting of the employee, his or her spouse and two children requiring in all three adult consumption units.

Explanation II.—"Adult consumption units" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child shall be calculated at the rate of eight-tenths and six-tenths, respectively, of one adult consumption unit.

19. Interval for rest.—The periods of work for employees in an industrial premises each day shall be so fixed that no period shall exceed five hours and that no employee shall work for more than five hours before he has had an interval for rest of at least half an hour.

20. Spread over.—The periods of work of an employee in an industrial premises shall be so arranged that inclusive of his intervals for rest under section 19, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spread over to twelve hours.

21. Weekly Holidays.—(1) Every industrial premises shall remain entirely closed, except for wetting of beedi or tobacco leaves, on one day in the week which day shall be specified by the employer in a notice exhibited in a conspicuous place in the industrial premises and the day so specified shall not be altered by the employer more often than once in three months and except with the previous written permission of the Chief Inspector.

(2) Notwithstanding anything contained in sub-section (1), an employee employed in the said premises for wetting of beedi or tobacco leaves on the day on which it remains closed in pursuance of sub-section (1), shall be

allowed a substituted holiday on one of the three days immediately before or after the said day.

(3) For a holiday under this section, an employee shall be paid, notwithstanding any contract to the contrary, at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the week immediately preceding the holiday exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation.—The expression "total full time earnings" shall have the meaning assigned to it in section 27.

22. Notice of periods of work.—(1) There shall be displayed and correctly maintained in every industrial premises a notice of periods of work in such form and in such manner may be prescribed, showing clearly for every day the periods during which the employees may be required to work.

(2) (*a*) A copy of the notice referred to in sub-section (1) shall be sent in triplicate to the Inspector having jurisdiction over the industrial premises within two weeks from the date of the grant of a licence for the first time under this Act, in the case of any industrial premises carrying on work at the commencement of this, and in the case of any industrial premises beginning work after such commencement, before the day on which the work is begun in the industrial premises.

(*b*) Any proposed change in the system of work which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in triplicate before the change is made and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

23. Hours of work to correspond with notice under section 22.— No employee shall be employed in any industrial premises otherwise than in accordance with the notice of work displayed in the premises under section 22.

24. Prohibition of employment of children.—No child shall be required or allowed to work in any industrial premises.

25. Prohibition of employment of women or young persons during certain hours.—No woman or young person shall be required or allowed to work in any industrial premises except between 6 a.m. and 7 p.m.

26. Annual leave with wages.—(1) Every employee in an establishment shall be allowed in a calendar year leave with wages—

(*i*) in the case of an adult, at the rate of one day for every twenty days of work performed by him during the previous calendar year;

(*ii*) in the case of a young person at the rate of one day for every fifteen days of work performed by him during the previous calendar year.

Explanation.—The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during, or at the beginning or at the end of, the period of leave.

(2) If an employee is discharged or dismissed from service or quits employment during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1).

(3) In calculating leave under this section, any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted.

(4) If any employee does not, in any calendar year take the whole of the leave allowed to him under sub-section (1), the leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not

exceed thirty in the case of an adult or forty in the case of a young person.

(5) An application of an employee for the whole or any portion of the leave allowed under sub-section (1) shall be in writing and ordinarily shall have to be made sufficiently in advance of the day on which he wishes the leave to begin.

(6) If the employment of an employee who is entiled to leave under sub-section (1) is terminated by the employer before he has taken the entire leave to which he is entitled, or if having applied for leave, he has not been granted such leave, or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 27 in respect of leave not taken and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment, on or before the next pay day.

(7) The leave not availed of by an employee shall not be taken in to consideration in computing the period of any notice required to be given before discharge or dismissal.

27. Wages during leave period.—(1) For the leave allowed to him under section 26, an employee shall be paid at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the month immediately preceding his leave exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation I—In this sub-section, the expression "total full time earnings" includes the cash equivalent of the advantage accruing through the concessional sale to employees of foodgrains and other articles, as the employee is for the time being entitled to, but does not include bonus.

Explanation II.—For the purpose of determining the wages payable to a home worker during leave period or for the purpose of payment of maternity benefit to a woman home worker "day" shall mean any period during which such home worker was employed, during a period of twenty-four hours commencing at midnight, for making beedi or cigar or both.

(2) An employee who has been allowed leave for not less than four days in the case of an adult and five days in the case of a young person, shall, before his leave begins, be paid wages due for the period of the leave allowed.

28. Application of the Payment of Wages Act, 1936 to industrial premises.—(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936,) (hereinafter referred to in this section as the said Act), the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of employees in establishment or class of establishments to which this Act applies and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purposes of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.

(2) The State Government may, by a like notification, cancel or vary any notification issued under sub-section (1).

29. Special provisions.—(1) The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees.

(2) The employer shall maintain in the prescribed form a record of the work permitted under sub-section (1) to be carried on outside the industrial premises.

(3) Save as otherwise provided in this Section, no employer shall require or allow any manufacturing process

connected with the making of b. edi or cigar or both to be carried on outside the industrial premises :

Provided that nothing in this sub-section shall apply to any labour who is given raw material by an employer or a contractor for being made into beedi or cigar or both at home.

30. Onus as to age.—(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act and such person is, in the opinion of the court, *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a medical officer not below the rank of a Civil Assistant Surgeon relating to an employee that he has personally examined him and believes him to be under the age stated in such declaration, shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that employee.

31. Notice of dismissal.—(1) No employer shall dispense with the services of an emplyee who has been employed for a period of six months or more, except for a reasonable cause, and without giving such employee at least one month's notice or wages in lieu of such notice :

Provided that such notice shall not be necessary if the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held by the employer for the purpose.

(2) (*a*) The employee discharged, dismissed or retrenched may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer or on the ground that such punishment of discharge or dismissal was severe.

(*b*) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee,

dismiss the appeal or direct the reinstatement of the employee with or without wages for the period during which he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case.

(3) The decision of the appellate authority shall be final and binding on both the parties and be given effect to within such time as may be specified in the order of the appellate authority.

32. Penalty for obstructing Inspector.—Whoever obstructs the Chief Inspector or an Inspector in the exercise of any powers conferred on him by or under this Act, or fails to produce on demand by the Chief Inspector or an Inspector any register or other document kept in his custody in pursuance of this Act or of any rules made thereunder, or conceals or prevents any employee in an industrial premises from appearing before or being examined by the Chief Inspector or an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

33. General penalty for offence.—(1) Save as otherwise expressly provided in this Act, any person who contravenes any of the provisions of this Act or of any rule made thereunder, or fails to pay wages or compensation in accordance with any order of the appellate authority passed under clause (b) of sub-section (2) of section 31, shall, be punishable, for the first offence, with fine which may extend to two hundred and fifty rupees and for a second or any subsequent offence with imprisonment for a term which shall not be less than one month or more than six months or with fine which shall not be less than one hundred rupees or more than five hundred rupees or with both.

(2) (*a*) Any employer who fails to reinstate any employee in accordance with the order of the appellate authority passed under clause (b) of sub-section (2) of section 31, shall be punishable with fine which may extend to two hundred and fifty rupees.

(*b*) Any employer, who, after having been convicted under clause (*a*), continues, after the date of such conviction, to fail to reinstate an employee in accordance with the order mentioned in that clause, shall be punishable, for each day of such default, with fine which may extend to twenty rupees.

(*c*) Any Court trying an offence punishable under this sub-section may direct that the whole or any part of the fine, if realised, shall be paid, by way of compensation, to the person, who, in its opinion, has been injured by such failure.

(3) Notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936). with regard to the definition of wages, any compensation required to be paid by an employer under clause (b) of sub-section (2) of section 31 but not paid by him shall be recoverable as delayed wages under the provisions of that Act.

(4) It shall be no defence in a prosecution of any person for the contravention of the provisions of Section 5 that any manufacturing process connected with the making of beedi or cigar or both was carried on by such person himself or by any member of his family or by any other person living with or dependent on such person.

34. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate and includes a firm, and other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

35. Indemnity.—(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

36. Cognizance of offences.—(1) No Court shall take cognizance of an offence punishable under this Act except upon a complaint made by, or with the previous sanction in writing of the Chief Inspector or an Inspector within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector:

Provided that where the offence consists of disobeying a written order made by the competent authority, the Chief Inspector or an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

(2) No Court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

37. Application of the Industrial Employment (Standing Orders) Act, 1946 and the Maternity Benefit Act, 1961.—(1) The provisions of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), shall apply to every industrial premises wherein fifty or more persons are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of Section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply all or any of the provisions of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946) to any industrial premises wherein less than fifty employees are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of Section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

(3) Notwithstanding anything contained in the Maternity Benefit Act, 1961, 53 of 1961, the provisions of that Act shall apply to every establishment as if such establishment where an establishment to which that Act has been applied by a notification under sub-section (1) of section 2 thereof:

Provided that the said Act shall, in its application to a home worker, apply subject to the following modifications, namely :—

(*a*) in section 5, in the *Explanation* to sub-section (*b*), the words "or one rupee a day, whichever is higher" shall be omitted; and.

(*b*) sections 8 and 10 shall be omitted.

38. Certain provisions not to apply to industrial premises.— (1) Chapter IV and section 85 of the Factories Act, 1948 63 of 1948 shall apply to an industrial premises and the rest of the provisions in that Act shall not apply to any industrial premises.

(2) Nothing contained in any law relating to the regulation of the conditions of work of workers in shops or commercial establishments shall apply to any establishment to which this Act applies.

39. Application of the Industrial Disputes Act, 1947.— (1) The provisions of the Industrial Disputes Act 1947 14 of 1947, shall apply to matters arising in respect of every industrial premises.

(2) Notwithstanding anything contained in sub-section (1), a dispute between an employer and employee relating to—

(*a*) the issue by the employer of raw materials to the employees.

(b) the rejection by the employer of beedi or cigar or both made by an emyloyee.

(*c*) the payment of wages for the beedi or cigar or both rejected by the employer.

shall be settled by such authority and in such summary manner as the State Government may by rules specify in this behalf.

(3) Any person aggrieved by a settlement made by the authority specified under sub-section (2) may prefer an appeal to such authority and within such time as the State Government may by notification in the Official Gazette, specify in this behalf.

(4) The decision of the authority specified under sub-section (3) shall be final.

40. Effect of laws and agreements inconsistent with this Act.—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, or contract of service whether made before or after the commencement of this Act:

Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Act, the employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

41. Power to exempt.—The State Government may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions as it may impose, any class of industrial premises or class of employers or employees from all or any of the provisions of this Act or of any rules made thereunder:

Provided that nothing in this section shall be construed as empowering the State Government to grant any exemption in respect of any woman employee from any of the provisions of this Act or any rules made thereunder relating to annual leave with wages, maternity benefits, creches, wages, rejection of beedi or cigar and night work.

42. Powers of Central Government to give directions.—The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

43. Act not to apply to self-employed persons in private dwelling houses.— Nothing contained in this Act shall apply to the owner or occupier of a private dwelling house who carries on any manufacturing process in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him:

Provided that the owner or occupier thereof is not an employee of an employer to whom this Act applies.

Explanation.— For the purposes of this section, "family" means the spouse and children of the owner or occupier.

44. Power to make rules —(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the terms and conditions subject to which a licence may be granted or renewed under this Act and the fees to be paid in respect of such licence;

(*b*) the form of application for a licence under this Act and the documents and plans to be submitted together with such application;

(*c*) other matters which are to be taken into consideration by the competent authority for granting or refusing a licence;

(*d*) the time within, which the fees on payment of which and the authority to which, appeals may be preferred against any order granting or refusing to grant a licence;

(*e*) the submission of a monthly return by an employer to the competent authority specifying the quantity of tobacco released by the Central Excise Department and the number of beedi or cigar or both manufactured by him;

(*f*) the powers which may be conferred on the Inspectors under this Act;

(*g*) the standards of cleanliness required to be maintained under this Act;

(*h*) the standards of lighting, ventilation and temperature required to be maintained under this Act;

(*i*) the types of urinals and latrines required to be provided under this Act;

(*j*) the washing facilities which are to be provided under this Act;

(*k*) canteens;

(*l*) the form and manner of notice regarding the periods of work;

(*m*) the form in which records of work done outside an establishment shall be maintained;

(*n*) the authority to which and the time within which an appeal may be filed by a dismissed, discharged or retrenched employee;

(*o*) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed;

(*p*) the records and registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this Act and the rules made thereunder;

(*q*) the maintenance of first aid boxes or cupboards and the contents thereof and the persons in whose charge such boxes shall be placed;

(*r*) the manner in which sorting or rejection of beedi or cigar or both and disposal of rejected beedi or cigar or both shall be carried out;

(*s*) the fixation of maximum limit of the percentage of rejection of beedi or cigar or both manufactured by an employee;

(*t*) specifying the place at which wages shall be paid to persons who receive directly or through an agent raw materials for the manufacture of beedi or cigar or both at home ;

(*u*) supervision by the Inspectors over distribution of raw materials including beedi and tobacco leaves to the employees ;

(*v*) precautions to be taken against fire for the safety of workers ;

(*w*) authority by which and the manner in which a dispute as to the issue of raw materials shall be settled and the authority to which an appeal shall lie from the settlement made by the first-mentioned authority ;

(*x*) any matter which is required to be, or may be, prescribed.

(3) All rules made under this Act shall be published in the Official Gazette and shall be subject to the condition of previous publication ; and the dates to be specified under clause (3) of section 23 of the General Clauses Act, 1897, (10 of 1897). shall not be less than three months from the date on which draft of the proposed rules was published.

(4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Legislatures agree in making any modification in the rule or the Legislatures agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bhare